

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

SHAWN D. MOORE

Plaintiff,

v.

CIV 10-0539 BB/KBM

SERGEANT AARON BELL,
MICHAEL GATTI,
LIEUTENANT JOE PACHECO,
CORRECTIONAL OFFICER JASON GARCIA,
CORRECTIONAL OFFICER FNU MORA,

Defendants.

ORDER FOR ADDITIONAL SUPPLEMENTATION
&
NOTICE THAT CASE IS UNDER SUBMISSION

THIS MATTER is before the Court *sua sponte* upon a review of the record. I note that the supplemental briefing is complete and that Defendants submitted a CD which contains a short video. Having quickly reviewed the *Martinez* Report and other subsequent defense submissions, I am unable to locate any documentation on the docket sheet authenticating this CD or its contents. I am also aware of Plaintiff's recent letters that allege continuing harassment, and that he filed his supplemental response even though has not seen the "video footage" of the CD because someone (evidently at the prison) told him "they couldn't get the video to work." *Doc. 40; see also Doc. 41.*

Submission of the CD appears to moot Plaintiff's motion "to have Defendants Submit

Videotapes of All Incident Date And All Record Statements,” and I will deny it as such at this time without prejudice. *See Doc. 33*. Likewise, Defendants’ response concerning additional medical records also appears to moot Plaintiff’s motion to submit his “whole” medical file, and I will also deny that motion without prejudice. *See Doc. 32*.

I am writing to notify the parties that I am taking this case is under submission, and I will prepare my proposed findings as quickly as possible given other pending matters on the docket. In the meantime, I ask that counsel for Defendants submit the appropriate authentication for the CD and make efforts to ensure Plaintiff is able to view it within the next three weeks. Plaintiff may file another supplemental response within ten days of viewing the CD, if he so wishes. I recognize that there may be legitimate and insurmountable reasons why Plaintiff cannot view the footage and, if that is the case, counsel for Defendants should secure an affidavit from the appropriate individual detailing those reasons for the record. That will not impede the case from moving forward, however, because I will describe the footage in detail in my proposed findings.

Wherefore,

IT IS HEREBY ORDERED that Plaintiff’s motions concerning supplementation of the record (*Docs. 32, 33*), are denied WITHOUT PREJUDICE as MOOT.

IT IS FURTHER ORDERED that counsel for Defendants complete the other items I have outlined by March 1, 2011, and that Plaintiff file an additional supplemental response, if any, by March 11, 2011.

THE PARTIES ARE ALSO NOTIFIED THAT THE CASE IS UNDER SUBMISSION.


UNITED STATES MAGISTRATE JUDGE